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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/072,106 | 02/08/2002 | John Walter Turgeon-Schramm | 3616.199US01 | 2539 |

7590 03/11/2004

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| EXAMINER |
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CHAN, KO HUNG

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| ART UNIT | PAPER NUMBER |
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3632

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/072,106 | Applicant(s) TURGEON-SCHRAMM ET AL. | |
| | Examiner Korie H. Chan | Art Unit 3632 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12 and 14-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 10-12 and 14 is/are allowed.
 6) ☒ Claim(s) 1-3,5-9 and 15-18 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 8, "the subcourse blocks" lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, and 16-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Sorheim et al (US patent no. 5,820,304). Sorheim discloses a block is *capable of having an intended orientation* where the block has a channel (6) on a top surface (4, note that you can rotate the block such that 4 is a top surface) which includes a closed end and an open end extending through one of the end surfaces (5) of the block and wherein the channel is sized to receiving an elongate retaining member (20)', and wherein the six surfaces of the block are have a textured surface; wherein the channel has a portion with a depth adjacent the rear wall that is greater than a depth of

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another portion adjacent the front wall; and wherein a wall (figure 4) having an exterior corner with the corner blocks described.

Regarding applicant's intended use recitation to a retaining member, Levy's channel is capable of receiving a retaining member where no portion is exposed above top surface of block.

Claims 1, 2, 5, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Stenekes (US patent no. 6,065,265). Stenekes discloses a block (300, figure 12) *capable of having an intended orientation* where the block has parallel end surfaces, parallel side surfaces, parallel top and bottom surfaces wherein the top surfaces has a channel (354) having front and rear walls diverge upward (from 354 to 344) wherein the blocks are used to form corner wall (figure 8).

Claims 1, 5, and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Levy (US patent no. 6,065,265). Levy discloses a block (7, figure 1) having parallel end surfaces, parallel side surfaces, parallel top and bottom surfaces wherein the top surfaces has a channel (2) closer to one side surface wherein the blocks are used to form corner wall (figure 1).

Regarding applicant's intended use recitation to a retaining member, Levy's channel is capable of receiving a retaining member where no portion is exposed above top surface of block.

Claims 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Praetorius (US patent no. 1,418,464). Praetorius discloses a first plurality of blocks (a,

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figure 2 and figure 4) defining exterior corner (figure 4) and second plurality of blocks (c, figure 2) defining a wall portion (figure 1) adjacent the exterior corner (see figure 2) wherein the height of the first plurality of blocks is less than the height of the second plurality of blocks wherein the exterior corner is formed of first and second subcourses of blocks (d, d, figure 4).

Claims 10-14 are allowed.

Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Heath discloses the corner block of different height than wall portion block. Van Camp, Whiting, Jensen et al, Colen teach blocks with channel therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Korie H. Chan
Primary Examiner
Art Unit 3632

khc
March 8, 2004